

REMARKS

Claims 23-30 and 41-50 are pending within this application. Claims 1-22 and 31-40 have been canceled both in favor of new claims 41-50 and for a filing of a proper divisional application. New Claims 41-50 thus read basically the same as originally filed Claims 1-10, with the exception that the new Claims include the limitation that the ink is black and comprises black coloring agents (as discussed throughout the specification, particularly within the examples). No new matter has been introduced. Entry and due consideration of these new claims are respectfully requested.

The Office has rejected Claims 1-2 under 35 USC § 102(b) as being anticipated by Harris et al. (using Krutak et al. as support for defining certain limitations therein). The Office has also rejected Claims 1-4 and 7-8 as being anticipated by the same reference (using Cross et al. as support for defining certain limitations therein). The Office has also rejected Claims 1-10 and 23-30 as being unpatentable under 35 USC § 103(a) by Harris et al. in view of Baumgartner et al. Applicant has chosen to reply these bases of rejection in combination as they all rely upon the pertinence of the teachings of Harris et al. In essence, Applicant believes the Office has misunderstood or misinterpreted the teachings of this cited reference, as well as the pending claims, to determine the patentability of Applicant's claimed invention. Harris et al. direct the ordinarily skilled artisan to develop a colored polyurethane oligomer that is intended to replace other colorants and/or binders present within a gravure ink formulation. Such a compound is prepared by the addition reaction of a polyisocyanate and a colorant having at least two nucleophilic substituents. There is no discussion of toner capabilities of such an oligomeric

compound, nor is there any specific disclosure that a polymeric compound within Harris et al. meets the wavelength range limitations of the present claims. The best the Office can do is say that Krutak et al. teaches a colorant that may be selected by Harris et al. for inclusion within their oligomeric compound; however, Krutak et al. includes no fewer than 352 examples of colorants that may be chosen for this specific role. How the ordinarily skilled artisan could possibly decide that one single compound exemplified within the Krutak et al. reference, without any direction from Harris et al. to select any particular colorant to be utilized as a reactant with a polyisocyanate to form their polyurethane oligomeric colorant compound is not understood? To be frank, such a combination of teachings simply does not rise to the level of anticipation. At best, the Office may consider the single sentence within Harris et al. that the colorant component of their polyurethane oligomeric compound may be selected from those compounds disclosed within Krutak et al. contributes a certain level of suggestion to utilize one of Krutak et al.'s colorants, particularly since other types of compounds may be selected from other referenced patents as well. But, to go even further and state that the selection of Example 19 (the only one that discloses specifically a wavelength within the range now claimed, albeit for that colorant; most likely, upon reaction with the polyisocyanate as within Harris et al., the presence of a cyano group will modify the color thereof and result in a shift outside such a claimed range) is anticipatory seems to indicate that Harris et al. give direction to select such a specific Example, which is clearly not the case. To reiterate, although Harris et al. state that Krutak et al. provide proper colorants for the production of Harris et al.'s polyurethane oligomeric compounds, there is no direction to select any particular colorant from the myriad of types taught within the Krutak et

al. reference. Without such direction, the holding that anticipation resides in this situation is untenable.

The same must hold true for the other anticipatory rejection in view of Harris et al. (based on the disclosures of Cross et al.), only to a greater degree since there are no examples of colorants within the Cross et al. reference that exhibit the same λ max range of wavelengths as now claimed at all. There is thus no teaching whatsoever within either Harris et al. or Cross et al. of any compound, let alone specifically a compound that provides toning within a black gravure ink composition, that meets the present limitations. The same holds true for Krutak et al.'s compounds, since no discussion of toning of black gravure inks is present within either of Harris et al. or Krutak et al., either.

Additionally, the Office has stretched this anticipatory holding even further by stating that, at least for original claims 23-30, that a black gravure ink is present within the Harris et al. reference that includes a polymeric toner compound as now claimed, or any toner for that matter that provides the same hue angle results for the black ink or exhibits the same absorption wavelength range as now claimed. Where is the example within Harris et al. of a black colorant of any type that is mixed with a polymeric toner compound as now claimed? Applicant can find no such disclosure that would be an anticipatory teaching over the pending claims within the Harris et al. reference. Although it is true that inherency and implied teachings may rise to the level of anticipation, in this situation, the Office has, in Applicant's opinion, gone too far with assumptions and implications. All of the examples within Harris et al. are directed to colored inks that are not black. The only citation of black colorants is out of long laundry lists of

coloring agents that could be present within patentees' inks. There is no indication within the four corners of the Harris et al. patent that a toned black gravure ink is even considered as a possible result; to the contrary, the apparent desire is to provide polyurethane oligomeric colorant compounds that act as both a colorant and a binder to supplement and/or complement the potentially present pigment or other colorant therein (or replace it altogether). Again, it is not understood nor well taken by Applicant why or how this reference could be considered anticipatory as a result. At best, Harris et al. may be considered as a proper obviousness reference, although Applicant does not agree with such a holding either.

As for the remaining basis of rejection over the claims, namely that of Claims 1-10 and 23-30 under 35 USC § 103(a), the Office retains its position concerning the propriety of Harris et al. as an anticipatory reference in order to set forth such a rejection. Baumgartner et al. simply does not provide anything further to merit such a holding in view of the clear lack of anticipation of the pending claims as a result of Harris et al. initially. Furthermore, the Office has improperly considered teachings for polymeric colorants for thermoplastic resins (Baumgartner et al.), in terms, specifically, of the ability of such colorants to exhibit low migration therefrom, proper colorations therein, etc., as desirable properties for gravure inks. The ability of certain polymeric colorants to exhibit excellent properties within thermoplastics do not always translate into particularly suitable results within other media, let alone gravure inks. In any event, Baumgartner et al. provide nothing of use in aiding the Office's position, simply because this reference does not teach the importance of polyurethane oligomeric compounds (reaction products of colorants and polyisocyanates) within inks, let alone gravure inks as is required by

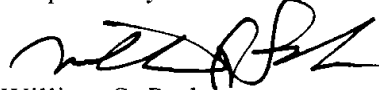
the primary Harris et al. reference. There is no reason the ordinarily skilled artisan would have been motivated to follow the Baumgartner et al. teachings in tandem with the Harris et al. reference in order to provide a better toned black gravure ink as is now required by the present pending claims.

Furthermore, and in relation to all of the rejections above, since the only real basis of rejection the Office could possibly properly assert over the pending claims in view of the Harris et al. reference would be obviousness-based, it is imperative that the Office consider the fact that Applicant has provided evidence of the importance of selecting a proper toner compound within the absorption wavelength range now claimed within the Examples of his originally filed specification. The resultant hue angle provided thereby within black gravure inks is a vast improvement versus the standard toned black gravure inks now available within the industry. It is respectfully submitted that the Office should take this into consideration when assessing the pending claims. All in all, it is evident to Applicant that the Office has not fully understood the teachings of Harris et al. and has taken anticipation too far to reject the pending claims. Reconsideration and withdrawal of these untenable rejections are therefore earnestly solicited.

CONCLUSION

In view of all of the previous amendments and arguments, it is respectfully submitted that the pending claims are now in condition for allowance and it is requested that this application be passed on to issue.

Respectfully submitted,



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